

REMARKS

Claims 1, 4-10 and 18-19 are presently pending in this application.

Claims 1-4, 6-10, 12 and 18-20 stand finally rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 4,589,145 issued to Van Erden et al.

Claims 1-4, 6-8, 10, 12, and 18-20 stand finally rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 5,024,537 issued to Tilman.

Claims 1-3, 5, 6, 8 and 10 stand finally rejected under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 5,071,689 issued to Tilman.

The Van Erden et al. patent describes a recloseable package adapted for continuous in-line form, fill and seal production. In order to keep zipper means 27 closed throughout the wrapping process, zipper means 27 is provided with spot seals 47 at intervals along the zipper at which the wrappers for the individual product articles 18 will be sealed across wrapper material 20. The Van Erden et al. patent reports that seals 47 advantageously reduce the thickness of the material layers to be cross-sealed, so as not to impair the normal operation of fill machine 19. (See Column 7, lines 6-18 of the Van Erden et al. patent.)

However, the Van Erden et al. patent does not teach a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile strip and said second profile strip, as recited in Claim 1 of the subject application. Also, the Van Erden et al. patent does not teach that the compression molded segment seal includes a fused section of said first and second profile strips formed through the application of heat and pressure, as recited in Claim 1. Additionally, the Van Erden et al. patent does not teach that the fused section is substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked.

The Van Erden et al. patent describes a "spot seal", but does not teach the use of spot seal 47 to produce an air tight seal. To the contrary, the Van Erden et al. patent states that fold 31, which is located outwardly from zipper 27, provides a closure web which maintains the sealed integrity of the package. At most, the Van Erden et al. patent

teaches that spot seals 47 are useful for holding closed the grooves of zipper 28, when chunky product 18 would otherwise fill the grooves of zipper strips 28. (See Column 5, line 62 to Col. 6, line 4 of the Van Erden patent.)

Because spot sealing a zipper profile of a reclosable fastener for a bag does not ordinarily produce an air tight seal, the package described by the Van Erden patent does not inherently anticipate the compression molded segment, as recited in Claim 1. The Declaration of Donald K. Wright and Christopher Pemberton executed April 15, 2002 and accompanied by photographs marked Exhibits I – IV (hereinafter referred to as “Declaration with Photographs”), a copy of which accompanies this response, declares at Paragraph 11 that “spot sealing a zipper profile of a reclosable fastener for a bag does not ordinarily produce an air tight seal...”

Because spot sealing a zipper profile of a reclosable fastener for a bag, and then heat sealing the end of the zipper profile of the reclosable fastener for the bag, does not ordinarily produce an air tight seal; the package described by the Van Erden patent does not inherently anticipate the compression molded segment, as recited in Claim 1. The Declaration with Photographs declares at Paragraph 13 that “spot sealing a zipper profile of a reclosable fastener for a bag, and then heat sealing the end of the zipper profile of the reclosable fastener for the bag, does not ordinarily produce an air tight seal...”

As further evidence that bags having spot sealing at the ends of their fasteners leak, the Declaration of Donald K. Wright and Christopher Pemberton executed April 15, 2002 and accompanied by a chart marked Exhibit I and a videotape showing a testing procedure and results (hereinafter referred to as “Declaration with Chart and Videotape”) is enclosed with this Response. As stated in Paragraph 1 of the Declaration with Chart and Videotape, “Exhibit I is a chart showing vacuum testing of Com-Pac plastic bags having fasteners compression molded to the bag walls and five other sets of plastic bags all using ultrasonic sealers to apply spot seals to seal the ends of the fastener strips to the bag walls.” As set forth in Paragraph 2, “the bags having spot sealing at the ends of their fastener profiles leaked and are, therefore, not airtight.”

As stated in Paragraph 8 of the Declaration with Photographs, compression molding means “to compress, mold and shape the heated plastic over a sufficient period of time so as to gradually form a flattened seal which is air tight, the plastic filling all

voids, while at the same time not distorting (stretching, elongating or changing the shape of) the portions of fastener profiles which are outside the flattened seal.” Clearly, the Van Erden patent does not teach compression molding. Therefore, the rejection of Claim 1 under Section 102(b) as being anticipated by the Van Erden et al. patent is inappropriate.

The arguments in favor of patentability over the Van Erden et al. patent set forth above with regard to Claim 1 are equally applicable to Claims 2-4, 6-10, 12 and 18-20. Therefore, the rejection under Section 102(b) as being anticipated by the Van Erden et al. patent must now be withdrawn.

The Tilman ‘537 patent describes straight zipper sections 22 mounted on a carrier tape 28 in longitudinal series orientation for fan folding and packing into a storage container. According to the Tilman ‘537 patent, complementary zipper profiles 13 and 14 are disposed along respective margins of strips 10 and 11, with strips 10 and 11 extending in opposite directions from the margins to provide respective base flanges 15. Profile areas at the ends of zipper sections 22 are provided with spot seals 23, which flatten the profile areas to nearer the thickness of flange 15. The Tilman ‘37 patent reports that this flattening by spot seal 23 facilitates subsequent sealing of the ends of the strips 10 and 11 into side seals of bags. (See Column 2, lines 54-61, of the Tilman ‘537 patent.)

However, the Tilman ‘537 patent does not teach a compression molded segment with a seal portion fusing the first profile strip, the second profile strip and the ribs of the first profile strip and the second profile strip, as recited in Claim 1 of the subject application. Also, the Tilman ‘537 patent does not teach that the compression molded segment seal includes a fused section of the first and second profile strips formed through the application of heat and pressure, as recited in Claim 1. Additionally, the Tilman ‘537 patent does not teach that the fused section is substantially flattened to form an airtight seal of the first and second profile strips, without distorting the ribs of the first and second profile strips outside of the fused section, thereby maintaining the airtight seal of the first and second profile strips when interlocked.

At most, the Tilman ‘537 patent teaches that spot seal 23 is useful for flattening the profile areas at the ends of zipper sections 22 to facilitate subsequent sealing of the ends of strips 10 and 11 into side seals of bags. (See Column 2, lines 57-61, of the

Tilman '537 patent.) However, the Tilman '537 patent does not teach the use of spot seal 23 to produce an air tight seal.

Because spot sealing a zipper profile of a reclosable fastener for a bag does not ordinarily produce an air tight seal, the straight zipper sections 22 mounted on carrier tape 28 described by the Tilman '537 patent do not inherently anticipate the compression molded segment, as recited in Claim 1. Moreover, because spot sealing a zipper profile of a reclosable fastener for a bag, and then heat sealing the zipper profile of the reclosable fastener for the bag, does not ordinarily produce an air tight seal, the straight zipper sections 22 mounted on a carrier tape 28 described by the Tilman '537 patent do not inherently anticipate the compression molded segment, as recited in Claim 1. (See Paragraphs 11 and 13 of the Declaration with Photographs, and Paragraphs 1 and 2 of the Declaration with Chart and Videotape.) Therefore, the rejection of Claim 1 under Section 102(b) as being anticipated by the Tilman '537 patent is inappropriate.

The arguments in favor of patentability over the Tilman '537 patent set forth above with regard to Claim 1 are equally applicable to Claims 2-4, 6-8, 10, 12, and 18-20. Therefore, the rejection under Section 102(b) as being anticipated by the Tilman '537 patent must now be withdrawn.

The Tilman '689 patent describes an extruded plastic zipper structure comprising a continuous series of zipper sections 22 and hinges 21, so that zipper sections 22 can be fan-folded upon one another. Zipper section 22 is described as a recloseable interlocking assembly of zipper strip 10 including channel or groove shaped profile 13 substantially centered on base web 14, and zipper strip 11 including rib or arrow-shaped profile 15 substantially centered on base web 17. According to the Tilman '537 patent, sealing means 19 seals combination end seal and hinge 21 connecting adjacent ends of zipper sections 22.

The Tilman '537 patent also reports that at each end of hinge 21 there is desirably an end seal convergence area 24 transition from the total thickness of zipper section 22 for neat accommodation of the mass of zipper profile material displaced in the heat sealing process involved in fashioning hinges 21. Figure 4 is described as demonstrating how bag/package making film 25 may be joined in heat seal manner to base webs 14 and 17 as well as the hinge and end seal areas, 21 and 24, of the zipper.

However, the Tilman '689 patent does not teach a compression molded segment seal portion fusing said first profile strip, said second profile strip and said ribs of said first profile strip and said second profile strip, as recited in Claim 1 of the subject application. Also, the Tilman '689 patent does not teach that the compression molded segment seal includes a fused section of said first and second profile strips formed through the application of heat and pressure, as recited in Claim 1. Additionally, the Tilman '689 patent does not teach that the fused section is substantially flattened to form an airtight seal of said first and second profile strips, without distorting said ribs of said first and second profile strips outside of said fused section, thereby maintaining said airtight seal of said first and second profile strips when interlocked.

To the contrary, Figures 3 and 4 of the Tilman '537 patent illustrate that channel-shaped profile 13 of zipper strip 10 and arrow-shaped profile 15 of zipper strip 11 are forced entirely out of hinge area 21 into end seal convergence connection 24. Therefore, the Tilman '689 patent cannot teach that hinge 21 fuses base webs 14 and 17 and profiles 13 and 15. At most, the Tilman '689 patent teaches that base webs 14 and 17 are fused to each other.

Figures 3 and 4 also show that the displaced mass of material from profiles 13 and 15 distorts adjacent portions of profiles 13 and 15 which are outside of hinge 21. This distortion tends to disrupt any air tight seal that may exist across or along profiles 13 and 15 adjacent hinge 21.

Moreover, Figures 3 and 4 depict end seal convergence area 24 as transitioning from the total thickness of zipper section 22 to a thickness nearer to the combined thickness of base webs 14 and 17. This transition in thickness tends to defeat any air tight seal which might arise through subsequent heat sealing of end seal convergence area 24 to a bag. In addition, applicant respectfully submits that fan folding would tend to rupture portions of the sealed portions of base webs 14 and 17, thus defeating the structural limitation of the present claims of providing an airtight seal.

Further, because spot sealing a zipper profile of a reclosable fastener for a bag does not ordinarily produce an air tight seal, the package described by the Tilman '689 patent does not inherently anticipate the compression molded segment, as recited in Claim 1. Moreover, because spot sealing a zipper profile of a reclosable fastener for a

bag, and then heat sealing the end of the zipper profile of the reclosable fastener for the bag, does not ordinarily produce an air tight seal, the package described by the Tilman '689 patent does not inherently anticipate the compression molded segment, as recited in Claim 1. (See Paragraphs 6 and 8 of the Declaration with Photographs, and Paragraphs 1 and 2 of the Declaration with Chart and Videotape.) Therefore, the rejection of Claim 1 under Section 102(b) as being anticipated by the Tilman '689 patent is inappropriate.

The arguments in favor of patentability over the Tilman '689 patent set forth above with regard to Claim 1 are equally applicable to Claims 2-3, 5, 6, 8 and 10. Therefore, the rejection under Section 102(b) as being anticipated by the Tilman '689 patent must now be withdrawn.

Reconsideration of the specification and the claims, and allowance of the pending claims, is respectfully requested.

Sincerely,

Date: _____

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